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U.S. DISTRICT COURT
DISTRICT OF MASS.

From: Filippo Toscano
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To: UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY, SUITE 2300
BOSTON, MA 02210

N. Weymouth, August 13, 2007

| | | |
|-------------------------|---|-----------------------|
| FILIPPO TOSCANO, |) | |
| Plaintiff, |) | |
| V |) | C.A. No. 04-12474-DPW |
| |) | |
| FLEET BOSTON FINANCIAL, |) | |
| Defendant. |) | |

Appeal to the Memorandum note of dismissal dated August 6, 2007 by DOUGLAS P. WOODLOCK,
UNITED STATES DISTRICT JUDGE

I, Filippo Toscano, the Plaintiff believe that I was discriminating against by Fleet Boston Financial , Karen Osowski. on the basis of national Origin. Disability. This is a violation of the M.G.L. 151B Section 4 Paragraph 16; M.G.L. 151B Section 4 Paragraph 1 and ADA.

I began working for Fleet Boston Financial in October 1999. I was initially hired as an Operational Supervisor, and I was then promoted in December of 2000 as a Training Specialist. Karen Osowski was my current supervisor. She tries to intimidate me during meetings, and often makes fun of my strong Italian accent. There are about nine other trainers, and Ms. Osowski treats them very well. She would provide additional assistance and training to my co-workers, but would purposely exclude me. I have always receive positive feedback from my trainings, as trainees are provided with evaluations to fill out confidentially. I have an average of 4.5 (out of a possible 5) on these evaluations. Despite this positive feedback, Ms. Osowski has given me three unjustified warnings for my performance. Ms. Osowski took over the department in June 2001. I was due a performance evaluation by her in February 2002. which she refused to give me.

In September of 2001 I suffered a heart attack, and I was out for a brief period of time. because she forced me to go back to work, even I was schedule to rehabilitations. My rehabilitation was very stressful because Ms. Osowski was very demanding and pushy. On April 19 of 2002, my Doctor George Gales placed me on indefinite leave due to my heart condition and stress. Defendant is aware of this condition, as I forwarded all medical documentation to them. I had a meeting scheduled with the Director of Training Department, Monica Herlihy, for April 23, 2002. I wanted to speak with her about the entire work situation, and the fact that Ms. Osowski was purposely treating me differently than the other trainers. I received a phone call the day before, on April 22, 2002, stating that the meeting was canceled. I believe that I am being harassed and singled out due to my strong accent, and my disability.

I was the only foreign in my department in Massachusetts at that time.

Here now will present the events according to my best recollection and evidence in my possession.

My ex team leader Mike Thorne did not follow a precise agenda of training according to what Karen Osowski is stating in step 3 of my final warning... "as outlined in the job accountability of a trainer Specialist III... within three presentations..." The first couple of weeks I was wondering from the Waltham site, the Dedham site and the Columbia Park site where we make a decision that this last site will be my home office.

Then Mike put me in a class in Dedham with Alexis already started where he kept me for three days, and then he put a group of four brand new hired trainers and giving under the direction of Ginny Concannon and Lee Anderson for three more days.

Then Brenda Wornum-Moore and myself spent two more days with Ginny and Lee and we were thrown in the middle of the Fleet-Summit Bank merge in Allenhurst NJ, and one week in Candlewood CT. where I got from trainers not help or explanations. In Allenhurst NJ I met for the first time Karen Osowski where she called me aside and said that if I cooperate with her I will be able to keep my job otherwise it would have been the end of my training career. I got very scared and I mention this incident to Brenda Wornum-Moore and Marv Barnes (trainers) and they said to don't worry.

So when I returned to Massachusetts I told Mike Thorne. Mike recognized the mistake and I was ready to quit, but he told me that I will get a good training and work things out. I was very grateful and things were going fine.

I call Susan Membrino Human Resources and tell her the events and expressed the desire to go to another department before it would be too late. She said give a little more time and let us look if in the bank is another position that I will be more productive. But took a long time before I had the opportunity to apply for a different position and the event took a nasty turn.

On May 8, 2001 I had finished my class that was set up at Columbia Park for the May 9-22-2001 session when the telephone rang. I answered the phone and it was Luzelenia Nunes the contractor trainer. She indicated to me she would be my co-trainer. I said OK and also said to her that I had already finished the class set up and mentioned that she can stay home and I will see her tomorrow. Luzelenia said that she was on her way and needed directions to Columbia Park. So I gave Luzelenia the directions. I waited for her. I showed her around and we had lunch together. That day we did not get the participants list and so we left for the day.

On May 9, 2001, first day of training I arrived at Columbia Park at 7:35 AM and Luzelenia was already in the room. We said Good-Morning to each other and while I was putting my books on the desk she asked:

"Where are the participants folders! I do not see them here!" with a very authoritative tone.

I said let me get them. I got them, gave to her and I started to turn on the monitors.

Luzelenia said: "They are blank? What Happened?"

I replied: Do you remember that yesterday when we left we hadn't received the participants list? Let me finish to turn on the monitors and I will go see if Herbert Mason faxed it.

Then she hammered back with an hard tone: "This is unprofessional. You should have everything ready before the class starts!"

I replied: You are right, while continuing to turn on the monitors.

Luzelenia said: "Phil who taught you this way?"

I replied: We have 50 minutes and we will be able to write the participants names on the folders. In addition, we should wait for them to come because many times someone doesn't show up and we waste folders and papers.

Luzelenia said to me with a nasty tone: "You don't know what are you doing, and I wonder why people don't to train with you!"

I froze. I stopped and said to her: "Repeat what you just said?"

Never mind, she said.

I would like to hear again what you just said to me, I replied.

At this point she said: "I gone go call Patrice Fitzsimmons and ask her to take me off this class". and she Walked away without giving me the time to answer her back.

So I went in the other room and call Mike Thorne and left a message on his voice mail marked urgent. Luzeleina and I started the class in a professional manner. Mike returned my call and came right away with Ginny Concannon. I told them the story. Then we were called together and told to forget what had happened and conduct ourselves in a professional manner. That was the way we handled ourselves for the duration of that class

The following day Mike came back and called me in another room. He gave me an oral warning because his perception was that the fault was mine. He spoke with Luzeleina and she apologize saying that was her fault, but Mike stood with his position.

Ginny Concannon stayed with us a few days and then we were left to finish the class. Then Mike told us that he was leaving Fleet and said to me to be very careful because Karen Osowski is a very hard person To deal with and she can cause a lot of problems to me.

I said to Mike: Then she will fire me after what happened here and in Hallenhurst NJ with her intimidation. Mike said: Think positive. For the record I never mention this to you!"

NOTE: Mike was escorted out of the office by the security guards!!!

During the 10 Day Class in Waltham June 18-29, 2001 with co-trainer Ginny Concannon, Karen Osowski came to observe me twice and everything seemed ok. Karen met with me on July 5th 2001 in Waltham and mentioned that she would help me with my delivery skills and specifically about my English that according to her was not good for my position. We agreed to get information at some local colleges or universities for a program that would help me to improve my presentation skills.

Karen and I spoke with a professor from University of Massachusetts in Boston from the English Department about a class and Karen seemed to let me enroll in this class. Well we were now at the end of August and I had asked Karen Osowski several times to let me enroll before time expires. and she kept postponing me for taking class. Also to understand better my job I asked Karen on August 7 and 8 of 2001 (see attached No. 1) to let me do in my down time **BRANCH VISIT** and she used this excuse on the third warning. This is unprofessional!!!

I started feeling that Karen was up to something against me and I was getting afraid that I will lose my job. Karen with her authoritative action was making me very uncomfortable. On September 4th 2001 I went to the emergency room at Quincy Medical Hospital. They performed an **EKG: prognosis...HEART ATTACK...A LOT OF STRESS ON THE JOB.**

On September 5th 2001 **ANGIOPLAST SURGERY AT MASSACHUSETT GENERAL HOSPITAL.**

On September 20 started a 10 Day Teller Class at Columbia Park. When I started this class I was coming out of surgery and I was taking a lot of medications: (nitroglycerin, aspirin Prozac- Lexapro, atenolol, liptor, folic acid, norvasc), but Karen told me that I should be doing OK.

On day nine Shakia Wilson (a participant). came late again for the fourth time more than thirty minutes Each time. While I was explaining the lesson she said: "In this class I didn't learn anything. You don't know anything. You are not good. You yell all the time ..." and she continued to say something else while I stood there frozen with my shoulders against the white board in front of the class without saying a word. I did not react. I paused a little and then continued. At 12 noon the participants went to lunch and in the corridor I over heard Stephane Deleba laughing saying to Shakia Wilson: "Why you said that to Philip?" Shakia: "So he can leave me alone and wouldn't call my boss anymore."

They were continuing to laugh without noticing that I was listening on the corner of the corridor. I was

very disappointed and discouraged about what I had just heard. When I returned to class outside the room and then inside enraged Mauna Annanzi and Esaura Bala said to me: "Philip don't take it personal. Think about your health... You are a good man....It was good that you didn't answer Shakia back

*** Check the attached record No. 2

Shakia Wilson 5 days late more than thirty minutes each time. I spoke with her manager Linda and she said that she will be spoken to at the branch.

Stephane Deleba 4 days late. same as Shakia.

Justin Gibbs was fired by his boss because tardy and had many days off.

IMPORTANT: Marie Stairs. my co-trainer at that time did not notice any abuse or other bad behavior by me. Later on she will change her statement. Where is the people **INTEGRITY?** If I was doing very bad as she stated on warning No. 2 why she didn't stop me of training the class specially knowing that I was taking all those medications? The two of them are laying and they set me up. Karen Osowski didn't want to listen anything I was saying. For my good behavior I ended up paying for other peoples misbehavior.

After this class I delivered classes on the following dates:

| | | | | |
|--------------------|------------------|--|---------------------------|-----|
| November 8-27 2001 | at Columbia Park | 12 Participants | Performance average on me | 4.6 |
| December 7-20 2001 | " " " | 10 " | " " " | 4.3 |
| January 7-18 2002 | " " " | 11 " | " " " | 4.8 |
| February 12 2002 | " " " | covered class in emergency. I was called at home around 6:40 AM by Karen Osowski. I accepted to go and I reported to class on time | | |

On Friday February 15, I received a call from Herb Mason, our department coordinator, saying that Karen had canceled the 1 PM meeting with me. He said to call Karen to reschedule it. I called Karen and left a message on her voice mail. Herb called me back apologizing and said that if everything was okay with me the meeting was still on in Waltham at 1 PM. I said that was okay.

Honestly I didn't know of any meeting because I mark everything on my calendar, and Karen had been canceling so many of our meetings that for me it was not a difference.

I taught that this would be an excellent meeting because of my very good effort and my excellent performance in these past classes and was rewarded by the appreciation of the participants with a good grades, personal gifts and thank you cards. (See attached No. 3), and a very good feedback by my co-trainer Holly Pempin (See attached No. 8).

This means that I have accomplished my goals and I would like to improve under the proper direction. In addition during the mo

IMPORTANT: In a few occasions Karen Osowski and Marie Stairs have made fun of my accent saying things like: Philip speak English! Don't speak Italian to us!... I do not understand when you speak because of your heavy accent!... You sound like many of our participants.

In addition to this Karen criticized me severely about the composure of my arms. She was saying: "Don't cross your arms on front because this means you want to keep distance and shut people off from you.... Don't put your arms in back because you seem to be a general... Don't put your hands in your Pocket because you give the sensation to be nervous."

I explained to Karen that I came from a different country and in Italy we are taught very young to cross our arms in front of us as a sign of respect and pay attention to the person that is talking to us. She was saying that I have to listen to her and forget everything else.

This is "**PURE HARASSMENT, DISCRIMINATION, AND INTIMIDATION**". She has a very narrow mind. I was explaining to my students that I was paying attention to them when I was doing the above gesture. Can one tell me where I have to put my hands and my arms?

On January 29, 2002 Karen Osowski in my office intimidate me saying with a very loud a rude tone that I was worth only a TWO and not a FOUR out of a FIVE for my performance evaluation. She left my office without saying a word. I knew that I was in deep trouble because nobody was with us and she can twist things the way she wanted and they will believe her because she is a woman.

On February 15, 2002 Karen Osowski gave to me step 3 final warning. This was an outrage because she knew that on the 20th my wife was scheduled for surgery. I was shaken. I couldn't believe what had just happened to me. This action by Karen Osowski and Britt Byers from Human Resources was a big contradiction and an abuse of power and a senseless step to intimidate and abuse me. (See attached No. 4)

IMPORTANT; Why Karen Osowski on February 8, 2002 gave me a thank you card in appreciation and gratitude for a good job well done? This is very contradictory with her actions.
(See attached No. 5)

Honorable Judge Douglas P. Woodlock I am requesting you that a department record will be giving to you, because I strongly believe that I am the only one with warnings. (up to this events date). when there should be other people too.

The branch visit sheet that I have attached (No. 6) is a demonstration that all other trainers have the same problem when they train participants, because not all participants get to understand the all program. The program is very hard to digest in ten days. As a matter of facts none of this participants in this list were trained by me. There are other lists with more names that you can request to see that I have been single out and discriminated

What kind of game Karen Osowski and Marie Stairs are playing with me? I am a man of **INTEGRITY** and an **HONEST** man I like to be heard and this misrepresentation and malice needs to be dropped for everybody sake.

See what I have stated in the letter dated November 13, 2001 to Karen Osowski (of which I have attached a copy.) I have also attached a copy of my self evaluation so you will have a better understanding of who is Filippo Toscano. See also attached copy No. 8 from Holly Pempin observation class January 2002. See also notes taken by me about Marie Stairs performance that lacks of knowledge and professionalism which the Human Resource from FleetBoston Financial disregarded purposely (See attached No.4)

I have included all Training Evaluations Summary from 3-22-2001 to 4-5-2002 (See attached No. 9) Also because I understand that there in the Teller Training Manual are some mistakes. cause of the continuing change for parts of the program, I have talked with Betty McLaughlin and Patrice Fitzsimmons. Betty took care of the changes. but Patrice up to July 7, 2002 did not made the change yet. I spoke with Patrice several times and I had to talk to KAREN Osowski about this matter because is causing a lot of commotions for trainers. Karen said that she would have taken care of it. but as I am stating. this problem still existed. (See attached No. 10)

HONORABLE JUDGE DOUGLAS P. WOODLOCK after reading a copy of the position statement sent to me by FleetBoston Financial Corp., I am very distressed because of the many inaccuracies stated about me.

Here are a few observation and comments regarding the statements made by Karen Osowski and Marie Stairs in their attachment No. 8 page 1:

1. I always ask participants if they have completed pre-work on day 1.
2. On day 10, during Back Screen Training, the accounts for the exercises did not work because they keep changing them. I made a decision to let the participants use my account and than their own accounts. In doing I tried not to waste much time. This is not way was a violation of the Privacy Policy. because I gave permission to use my account and their accounts . This is legal.

If a teller is uncomfortable with the endorsement on the back of the check. he/she can ask the

customer to sign it again on the back of the check or a piece of paper and destroy it after verifying the endorsement. Nobody violates Privacy Policy.

When covering the Pass/Fail portion of the teller training I do not want to create a negative reaction. On the contrary, I emphasize that they (the participants) should direct their energies in learning the material, ask questions, have all answers and think positive. Additionally I help coach and motivate participants in a constructive way. I try to build and create a safe atmosphere. I am not a destroyer.

Page 3.

English is my second language, therefore if I say: "Any problem with this? Or, Any question?" to me and The participants these statements sounds the same and we get the message across.

Page 4.

Another example: "Why we fill out a BSA? ... and... Why would you fill out a BSA information sheet?" **This is discrimination and their view is very narrow. They need to be trained to understand what diversity is at FLEETBOSTON FINANCIAL CORP.**

To answer to the question that two of my students had to be help with their training see attached No. 6 to prove that this is a common problem, because there are people that need more time to learn. These employees in these exhibits none were trained by me, therefore the other trainers are like me or this is **discrimination**.

I sit more at the desk during the first two or three days because the activities with the monitor are very minimal. In addition they are forgetting that I have back problem and wrist problem and I had suffered an heart attack, and when I was hired they knew this. (See doctors notes in attachment No. 11, and ask **HR RECRUITER SUSAN MEMBRINO at MADE 10306P, 1 Federal St. Boston. Phone :617-346-0499** **How I was hired at FleetBoston Financial Corp?**)

This is DISCRIMINATION and HARASSMENT and The United States District Court has to take this in consideration. I never interrupt my participants and I wait patiently until they finish to speak Before answering them. Karen Osowski and Marie Stairs have created me to be a moster.

Where is Fleet philosophy about understanding and promoting diversity? I understand people and I respect people because is my nature to do so. Please ask these trainers at Fleet for information about my statements.

Holly Pempin: 203-881-7560 at 115 Main St. Seymour, CT 06483.
Mary Barnes: 315-431-4597, at 2362 James St. Syracuse, NY 13206.
Brenda Wornum-Moore: 508-586-4992 (Brenda left Fleet)
Maureen Beaudin: 508-752-6935 at Forest St. Worchester, MA 10608.

Human Resource SUSAN MEMBRINO: 617-346-0499 at 1 Federal St. 6th Floor, Boston, MA 02114

Please Your Honor, Judge Douglas P. Woodlock listen the enclosed tape ,about 10 minutes time and you will understand that Karen Osowski and Britt Spears, and Maria Mendros opposed Human Resource Susan Membrino decision to transfer me to another department as Assistant Branch Manager in Roslindale MA, after I successful pass the interview for that position. **In this tape was left a vulgar message to me from unknown female. I asked Karen Osowski, Britt Spears and Maria Mendros to investigate this and they turned their back to me. This is a disgrace. This is DISCRIMINATION.**

They want me completely out of the Bank and destroyed contradicting their statement of Liberty Mutual that I was refusing to come back to work. I was **HARASSED and DESCRIMINATED and they have not**

HUMAN DIGNITY. THEY WERE EVIL! I followed my doctors advices to stay out of work, because was an hostile environment for my health; but they ignored it! (See attached No 11, Medical Evidence) .

If the powerful people who likes to commit injustice would be always obliged to say all his excuses, things wouldn't go the way they go. This is the painful reality of injustice about whom the history of people in the world is full.

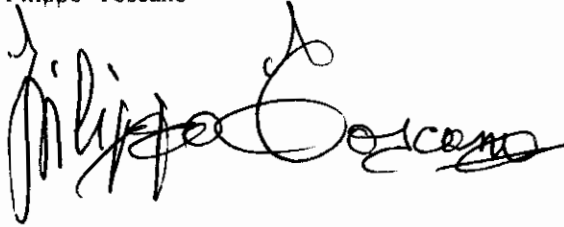
To the wicked is permitted everything, he can overturn reality and make prevail something that seem clear over what real is, or has occurred differently. The only right I have left to oppose is trough putting the **Trust in the JUSTICE that represent GOD on hearth.**

Your honor, you have taking all this time to let JUSTICE TRIUNPH , for this reason I am asking to help me and grant me justice.

Thank you very much

Sincerely your respectful

Filippo Toscano

A handwritten signature in black ink, appearing to read 'Filippo Toscano', written in a cursive style.